

AMENDED IN ASSEMBLY MARCH 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1026**

**Introduced by Assembly ~~Member Levine~~ *Members Levine and Runner***

February 20, 2003

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An act to add Section 1463.29 to the Penal Code, and to amend Sections 23538, 23540, 23542, 23546, 23548, 23550, 23550.5, 23552, 23554, 23556, 23560, 23562, 23566, 23568, 23575, and 23578 of, and to add Section 23587 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1026, as amended, Levine. Vehicles: driving-under-the-influence: penalties.

(1) ~~Existing law authorizes a court to require any person convicted of a first offense violation of certain driving under the influence (DUI) provisions to install a certified ignition interlock device on any vehicle that the person owns or operates and prohibit that person from operating a motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device.~~

~~This bill, instead, would require the court to impose the specified sanction on a first-time DUI offender who is found by the court to have had 0.15% or more, by weight, of alcohol in his or her blood at arrest, or who is found to have refused to take a chemical test at the time of the arrest. The bill would authorize the court to impose the specified sanction on other first-time DUI offenders who have 2 or more prior moving traffic violations.~~

~~(2)~~ Existing law requires a court to consider a concentration of alcohol in the person's blood of 0.20% or more, by weight, or the refusal of the person to take a chemical test as a special factor that may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation, when a person is convicted of violating specified ~~DUI~~ *driving under the influence* provisions (*DUI*).

This bill would decrease the required blood-alcohol concentration from 0.20% to 0.15%. The bill would make conforming changes in other, related provisions of law.

~~The bill would increase the minimum and maximum fines for violations of specified DUI provisions.~~

~~(3)~~

(2) Existing law imposes various fines and terms of imprisonment for a violation of a specified DUI ~~provision~~ *provisions*.

This bill would *increase the minimum and maximum fines for violations of specified DUI provisions*.

~~The bill would require the court to impose additional fines when a person is convicted of violating the specified DUI provision as a repeat offender or with a double the fine that otherwise would have been imposed for certain DUI convictions, if the court finds that the defendant had a blood-alcohol concentration of 0.15%, or more, by weight at arrest.~~ Because local prosecutors would be required to plead and prove the additional facts supporting the enhancement, the bill would impose additional duties upon those prosecutors and would thus establish a state-mandated local program.

The bill would require ~~all of the funds collected from the additional specified percentages of certain DUI fines~~ to be kept separate and apart from any other fines and forfeitures and be distributed by the county treasurer, as soon as practicable after their receipt, with 50% to be deposited in a special county account that would be used only for of the purposes of funding DUI programs licensed under existing law, as specified, and 50% to be deposited in the county's Maddy Emergency Medical Services (EMS) Fund, as specified, and expended only for the purposes authorized for the money in that fund. Because the bill thereby would impose additional duties upon the county treasurer, it would establish a state-mandated local program.

~~(4)~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:  
3 (a) Driving under the influence of alcohol or drugs, or a  
4 combination of alcohol and drugs (DUI), continues to cause  
5 devastating monetary and intangible damages to the residents of  
6 California.  
7 (b) The number of traffic fatalities related to alcohol in  
8 California has increased three years in a row.  
9 (c) Each year alcohol-related crashes in California cost the  
10 public an estimated \$4 billion in monetary costs and \$7 billion in  
11 quality of life losses.  
12 (d) Repeat DUI offenders and those offenders with high  
13 blood-alcohol concentrations (over 0.15 percent, by weight) are  
14 much more likely to be involved in fatal crashes.  
15 (e) Accordingly, it is the intent of the Legislature in enacting  
16 this act to sanction with greater severity those offenders who are  
17 most likely to cause the greatest damage and loss of life and to  
18 reduce the number of alcohol-related crashes and fatalities in  
19 California.  
20 SEC. 2. Section 1463.29 is added to the Penal Code, to read:  
21 1463.29. Notwithstanding Section 1463, all of the funds  
22 ~~collected under that are subject to subdivisions (b) to (e),~~  
23 *inclusive, of* Section 23587 of the Vehicle Code shall be kept  
24 separate and apart from any other fines and forfeitures and shall be



1 distributed by the county treasurer, as soon as practicable after  
2 their receipt, as follows:

3 (a) Fifty percent shall be deposited in a special county account  
4 that may be used only for the following purposes:

5 (1) In a county that does not have a driving-under-the-influence  
6 program licensed under Section 11836 of the Health and Safety  
7 Code, to fund the development, implementation, operation, and  
8 maintenance of that program.

9 (2) In a county that has only an 18-month  
10 driving-under-the-influence program, to fund the development,  
11 implementation, operation, and maintenance of a 30-month  
12 driving-under-the-influence program licensed under Section  
13 11836 of the Health and Safety Code.

14 (b) Fifty percent shall be deposited in the county's Maddy  
15 Emergency Medical Services (EMS) Fund established under  
16 Section 1797.98a of the Health and Safety Code, and may be  
17 expended only for the purposes authorized for the money in that  
18 fund.

19 SEC. 3. Section 23538 of the Vehicle Code is amended to  
20 read:

21 23538. (a) Except as provided in subdivision (d), if the court  
22 grants probation to ~~any~~ a person punished under Section 23536, in  
23 addition to the provisions of Section 23600 and any other terms  
24 and conditions imposed by the court, the court shall impose as a  
25 condition of probation that the person be subject to one of the  
26 following:

27 (1) Be confined in the county jail for at least 48 hours but not  
28 more than six months, and pay a fine of at least three hundred  
29 ninety dollars (\$390), but not more than one thousand dollars  
30 (\$1,000). Except as provided in paragraph (2), the person's  
31 privilege to operate a motor vehicle shall be suspended by the  
32 department under paragraph (1) of subdivision (a) of Section  
33 13352. The court shall require the person to surrender the driver's  
34 license to the court in accordance with Section 13550.

35 (2) Pay a fine of at least three hundred ninety dollars (\$390) but  
36 not more than one thousand dollars (\$1,000), and, if the person  
37 gives proof of financial responsibility, as defined in Section  
38 16430, to the department, have the privilege to operate a motor  
39 vehicle restricted for 90 days to necessary travel to and from that  
40 person's place of employment and to and from participation in a

1 program described in subdivision (b). If driving a motor vehicle  
2 is necessary to perform the duties of the person's employment, the  
3 restriction also shall allow the person to drive to locations within  
4 the person's scope of employment. Whenever the driving privilege  
5 is restricted pursuant to this paragraph, the person shall maintain  
6 proof of financial responsibility for three years.

7 (3) If the court elects to order a 90-day restriction as provided  
8 for in paragraph (2), the court shall order and advise the person of  
9 the following matters:

10 (A) If the person's privilege to operate a motor vehicle is  
11 suspended under Section 13353.2, the court-ordered restriction  
12 does not allow the person to operate a motor vehicle unless the  
13 suspension under Section 13353.2 has either been served to  
14 completion or set aside, and his or her license has been reinstated.  
15 The restriction of the driver's license described in paragraph (2)  
16 shall commence upon the reinstatement of the privilege to operate  
17 a motor vehicle.

18 (B) If a suspension was not imposed pursuant to Section  
19 13353.2, the person shall be advised by the court that the person's  
20 driving privilege may be suspended by the department pursuant to  
21 subdivision (c) of Section 13352.4 until proof of financial  
22 responsibility is provided.

23 (b) In any county where the board of supervisors has approved,  
24 and the State Department of Alcohol and Drug Programs has  
25 licensed, a program or programs described in Section 11837.3 of  
26 the Health and Safety Code, the court shall also impose as a  
27 condition of probation that the driver shall enroll and participate  
28 in, and successfully complete a driving-under-the-influence  
29 program, licensed pursuant to Section 11836 of the Health and  
30 Safety Code, in the driver's county of residence or employment,  
31 as designated by the court.

32 (1) The court shall refer a first offender whose blood-alcohol  
33 concentration was less than 0.15 percent, by weight, to participate  
34 for at least three months or longer, as ordered by the court, in a  
35 licensed program that consists of at least 30 hours of program  
36 activities, including those education, group counseling, and  
37 individual interview sessions described in Chapter 9 (commencing  
38 with Section 11836) of Part 2 of Division 10.5 of the Health and  
39 Safety Code.

(2) The court shall refer a first offender whose blood-alcohol concentration was 0.15 percent or more, by weight, or who refused to take a chemical test, to participate for at least six months or longer, as ordered by the court, in a licensed program that consists of at least 45 hours of program activities, including those education, group counseling, and individual interview sessions described in Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code.

(3) The court shall advise the person at the time of sentencing that the driving privilege shall not be restored until the person has provided proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(c) (1) The court shall revoke the person's probation pursuant to Section 23602, except for good cause shown, for the failure to enroll in, participate in, or complete a program specified in subdivision (b).

(2) The court, in establishing reporting requirements, shall consult with the county alcohol program administrator. The county alcohol program administrator shall coordinate the reporting requirements with the department and with the State Department of Alcohol and Drug Programs. That reporting shall ensure that all persons who, after being ordered to attend and complete a program, may be identified for either (A) failure to enroll in, or failure to successfully complete, the program, or (B) successful completion of the program as ordered.

(d) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class A or class B driver's license or with an endorsement specified in Section 15278, the court shall upon conviction order the department to suspend the driver's privilege pursuant to paragraph (1) of subdivision (a) of Section 13352.

SEC. 4. Section 23540 of the Vehicle Code is amended to read:

23540. If ~~any~~ a person is convicted of a violation of Section 23152 and the offense occurred within seven years of a separate violation of Section 23103, as specified in Section 23103.5, 23152, or 23153, which resulted in a conviction, that person shall be punished by imprisonment in the county jail for not less than 90 days nor more than one year and by a fine of not less than ~~seven~~

~~hundred fifty dollars (\$750) nor more than one thousand five hundred dollars (\$1,500) one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000).~~ The person's privilege to operate a motor vehicle shall be suspended by the department under paragraph (3) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

SEC. 5. Section 23542 of the Vehicle Code is amended to read:

23542. If the court grants probation to ~~any~~ a person punished under Section 23540, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be subject to either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 10 days but not more than one year, and pay a fine of at least ~~seven hundred fifty dollars (\$750), but not more than one thousand five hundred dollars (\$1,500).~~ *one thousand dollars (\$1,000), but not more than two thousand dollars (\$2,000).* The person's privilege to operate a motor vehicle shall be suspended by the department under paragraph (3) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(b) All of the following:

(1) Be confined in the county jail for at least 96 hours, but not more than one year. A sentence of 96 hours of confinement shall be served in two increments consisting of a continuous 48 hours each. The two 48-hour increments may be served nonconsecutively.

~~(2) Pay a fine of at least seven hundred fifty dollars (\$750), but not more than one thousand five hundred dollars (\$1,500).~~

*(2) Pay a fine of at least one thousand dollars (\$1,000), but not more than two thousand dollars (\$2,000).*

(3) Have the privilege to operate a motor vehicle be restricted by the department under Section 13352.5. Until all conditions prescribed in this section are met, the person's driving privilege is suspended pursuant to paragraph (3) of subdivision (a) of Section 13352. This paragraph does not apply if the offense occurred in a vehicle requiring a driver with a class A or class B driver's license or with an endorsement prescribed in Section 15278.



1 (4) Either of the following:

2 (A) Enroll and participate, for at least 18 months subsequent to  
3 the date of the underlying violation and in a manner satisfactory  
4 to the court, in a driving-under-the-influence program licensed  
5 pursuant to Section 11836 of the Health and Safety Code, as  
6 designated by the court. The person shall complete the entire  
7 program subsequent to, and shall not be given any credit for any  
8 program activities completed prior to, the date of the current  
9 violation. The program shall provide for persons who cannot  
10 afford the program fee pursuant to paragraph (2) of subdivision (b)  
11 of Section 11837.4 of the Health and Safety Code in order to  
12 enable those persons to participate.

13 (B) Enroll and participate, for at least 30 months subsequent to  
14 the date of the underlying violation and in a manner satisfactory  
15 to the court, in a driving-under-the-influence program licensed  
16 pursuant to Section 11836 of the Health and Safety Code. The  
17 person shall complete the entire program subsequent to, and shall  
18 not be given any credit for any program activities completed prior  
19 to, the date of the current violation.

20 (c) The court shall advise the person at the time of sentencing  
21 that the driving privilege shall not be restored until the person has  
22 provided proof satisfactory to the department of successful  
23 completion of a driving-under-the-influence program licensed  
24 pursuant to Section 11836 of the Health and Safety Code.

25 SEC. 6. Section 23546 of the Vehicle Code is amended to  
26 read:

27 23546. (a) If ~~any~~ *a* person is convicted of a violation of  
28 Section 23152 and the offense occurred within seven years of two  
29 separate violations of Section 23103, as specified in Section  
30 23103.5, 23152, or 23153, or any combination thereof, which  
31 resulted in convictions, that person shall be punished by  
32 imprisonment in the county jail for not less than 120 days nor more  
33 than one year and ~~by a fine of not less than one thousand dollars~~  
34 ~~(\$1000) nor more than two thousand dollars (\$2,000). The~~  
35 ~~person's privilege to~~ *by a fine of not less than two thousand dollars*  
36 *(\$2,000) nor more than four thousand dollars (\$4,000). The*  
37 *person's privilege to* operate a motor vehicle shall be revoked by  
38 the department as required in paragraph (5) of subdivision (a) of  
39 Section 13352. The court shall require the person to surrender his



1 or her driver's license to the court in accordance with Section  
2 13550.

3 (b) ~~Any~~ A person convicted of a violation of Section 23152  
4 punishable under this section shall be designated as a habitual  
5 traffic offender for a period of three years, subsequent to the  
6 conviction. The person shall be advised of this designation  
7 pursuant to subdivision (b) of Section 13350.

8 SEC. 7. Section 23548 of the Vehicle Code is amended to  
9 read:

10 23548. (a) If the court grants probation to ~~any~~ a person  
11 punished under Section 23546, in addition to the provisions of  
12 Section 23600 and any other terms and conditions imposed by the  
13 court, the court shall impose as conditions of probation that the  
14 person be confined in the county jail for at least 120 days but not  
15 more than one year and pay a fine of at least ~~one thousand dollars~~  
16 ~~(\$1,000) but not more than two thousand dollars (\$2,000). The two~~  
17 *thousand dollars (\$2,000), but not more than four thousand*  
18 *dollars (\$4,000). The person's privilege to operate a motor vehicle*  
19 *shall be revoked by the department under paragraph (5) of*  
20 *subdivision (a) of Section 13352. The court shall require the*  
21 *person to surrender the driver's license to the court in accordance*  
22 *with Section 13550.*

23 (b) In addition to subdivision (a), if the court grants probation  
24 to ~~any~~ a person punished under Section 23546, the court may order  
25 as a condition of probation that the person participate, for at least  
26 30 months subsequent to the underlying conviction and in a  
27 manner satisfactory to the court, in a driving-under-the-influence  
28 program licensed pursuant to Section 11836 of the Health and  
29 Safety Code. In lieu of the minimum term of imprisonment  
30 specified in subdivision (a), the court shall impose as a condition  
31 of probation under this subdivision that the person be confined in  
32 the county jail for at least 30 days but not more than one year. The  
33 court may not order the treatment prescribed by this subdivision  
34 unless the person makes a specific request and shows good cause  
35 for the order, whether or not the person has previously completed  
36 a treatment program pursuant to paragraph (4) of subdivision (b)  
37 of Section 23542 or paragraph (4) of subdivision (b) of Section  
38 23562. A person ordered to treatment pursuant to this subdivision  
39 shall apply to the court or to a board of review, as designated by  
40 the court, at the conclusion of the program to obtain the court's

1 order of satisfaction. Only upon the granting of that order of  
2 satisfaction by the court may the program issue its certificate of  
3 successful completion and report the completion to the  
4 department. A failure to obtain an order of satisfaction at the  
5 conclusion of the driving-under-the-influence program is a  
6 violation of probation. In order to enable all required persons to  
7 participate, each person shall pay the program costs commensurate  
8 with the person's ability to pay as determined pursuant to Section  
9 11837.4 of the Health and Safety Code. No condition of probation  
10 required pursuant to this subdivision is a basis for reducing any  
11 other probation requirement in this section or Section 23600 or for  
12 avoiding the mandatory license revocation provisions of  
13 paragraph (5) of subdivision (a) of Section 13352.

14 (c) In addition to the provisions of Section 23600 and  
15 subdivision (a), if the court grants probation to ~~any~~ a person  
16 punished under Section 23546 who has not previously completed  
17 a treatment program pursuant to paragraph (4) of subdivision (b)  
18 of Section 23542 or paragraph (4) of subdivision (b) of Section  
19 23562, and unless the person is ordered to participate in and  
20 complete a driving-under-the-influence program under  
21 subdivision (b), the court shall impose as a condition of probation  
22 that the person, subsequent to the date of the current violation,  
23 enroll and participate, for at least 18 months and in a manner  
24 satisfactory to the court, in a driving-under-the-influence program  
25 licensed pursuant to Section 11836 of the Health and Safety Code,  
26 as designated by the court. The person shall complete the entire  
27 program subsequent to, and shall not be given any credit for  
28 program activities completed prior to, the date of the current  
29 violation. Any person who has previously completed a 12-month  
30 or 18-month program licensed pursuant to Section 11836 of the  
31 Health and Safety Code shall not be eligible for referral pursuant  
32 to this subdivision unless a 30-month licensed  
33 driving-under-the-influence program is not available for referral  
34 in the county of the person's residence or employment. The  
35 program shall provide for persons who cannot afford the program  
36 fee pursuant to paragraph (2) of subdivision (b) of Section 11837.4  
37 of the Health and Safety Code in order to enable those persons to  
38 participate. No condition of probation required pursuant to this  
39 subdivision is a basis for reducing any other probation requirement  
40 in this section or Section 23600 or for avoiding the mandatory

license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

SEC. 8. Section 23550 of the Vehicle Code is amended to read:

23550. (a) If ~~any~~ a person is convicted of a violation of Section 23152 and the offense occurred within seven years of three or more separate violations of Section 23103, as specified in Section 23103.5, or Section 23152 or 23153, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the state prison, or in a county jail for not less than 180 days nor more than one year, and by a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000). The person's privilege to operate a motor vehicle shall be revoked by the department under paragraph (7) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(b) ~~Any~~ A person convicted of a violation of Section 23152 punishable under this section shall be designated as a habitual traffic offender for a period of three years, subsequent to the conviction. The person shall be advised of this designation pursuant to subdivision (b) of Section 13350.

SEC. 9. *Section 23550.5 of the Vehicle Code is amended to read:*

23550.5. (a) A person is guilty of a public offense, punishable by imprisonment in the state prison or confinement in a county jail for not more than one year and by a fine of not less than ~~three hundred ninety one thousand five hundred~~ dollars ~~(\$390)~~ (\$1,500) nor more than ~~one ten thousand~~ dollars ~~(\$1,000)~~ (\$10,000) if that person is convicted of a violation of Section 23152 or 23153, and the offense occurred within 10 years of any of the following:

(1) A prior violation of Section 23152 that was punished as a felony under Section 23550 or this section, or both, or under former Section 23175 or former Section 23175.5, or both.

(2) A prior violation of Section 23153 that was punished as a felony.

(3) A prior violation of paragraph (1) of subdivision (c) of Section 192 of the Penal Code that was punished as a felony.

(b) ~~Every~~ A person who, having previously been convicted of a violation of Section 191.5 of the Penal Code or a felony violation of paragraph (3) of subdivision (c) of Section 192 of the Penal Code, is subsequently convicted of a violation of Section 23152 or 23153 is guilty of a public offense punishable by imprisonment in the state prison or confinement in a county jail for not more than one year and by a fine of not less than ~~three hundred ninety two thousand five hundred~~ dollars ~~(\$390)~~ (\$2,500) nor more than ~~one ten thousand~~ dollars ~~(\$1,000)~~ (\$10,000).

(c) The privilege to operate a motor vehicle of a person convicted of a violation that is punishable under subdivision (a) or (b) shall be revoked by the department under paragraph (7) of subdivision (a) of Section 13352, unless paragraph (6) of subdivision (a) of Section 13352 is also applicable, in which case the privilege shall be revoked under that provision. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(d) ~~Any~~ A person convicted of a violation of Section 23152 or 23153 that is punishable under this section shall be designated as a habitual traffic offender for a period of three years, subsequent to the conviction. The person shall be advised of this designation under subdivision (b) of Section 13350.

*SEC. 10.* Section 23552 of the Vehicle Code is amended to read:

23552. (a) If the court grants probation to ~~any~~ a person punished under Section 23550, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in a county jail for at least 180 days but not more than one year and pay a fine of at least five thousand dollars (\$5,000) but not more than ten thousand dollars (\$10,000). The person's privilege to operate a motor vehicle shall be revoked by the department under paragraph (7) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(b) In addition to subdivision (a), if the court grants probation to ~~any~~ a person punished under Section 23550, the court may order as a condition of probation that the person participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a driving-under-the-influence

1 program licensed pursuant to Section 11836 of the Health and  
 2 Safety Code. In lieu of the minimum term of imprisonment in  
 3 subdivision (a), the court shall impose as a condition of probation  
 4 under this subdivision that the person be confined in the county jail  
 5 for at least 30 days but not more than one year. The court shall not  
 6 order the treatment prescribed by this subdivision unless the  
 7 person makes a specific request and shows good cause for the  
 8 order, whether or not the person has previously completed a  
 9 treatment program pursuant to paragraph (4) of subdivision (b) of  
 10 Section 23542 or paragraph (4) of subdivision (b) of Section  
 11 23562. A person ordered to treatment pursuant to this subdivision  
 12 shall apply to the court or to a board of review, as designated by  
 13 the court, at the conclusion of the program to obtain the court's  
 14 order of satisfaction. Only upon the granting of that order of  
 15 satisfaction by the court may the program issue its certificate of  
 16 successful completion and report the completion to the  
 17 Department of Motor Vehicles. A failure to obtain an order of  
 18 satisfaction at the conclusion of the program is a violation of  
 19 probation. In order to enable all required persons to participate,  
 20 each person shall pay the program costs commensurate with the  
 21 person's ability to pay as determined pursuant to Section 11837.4  
 22 of the Health and Safety Code. No condition of probation required  
 23 pursuant to this subdivision is a basis for reducing any other  
 24 probation requirement in this section or Section 23600 or for  
 25 avoiding the mandatory license revocation provisions of  
 26 paragraph (7) of subdivision (a) of Section 13352.

27 (c) In addition to the provisions of Section 23600 and  
 28 subdivision (a), if the court grants probation to ~~any~~ a person  
 29 punished under Section 23550 who has not previously completed  
 30 a treatment program pursuant to paragraph (4) of subdivision (b)  
 31 of Section 23542 or paragraph (4) of subdivision (b) of Section  
 32 23562, and unless the person is ordered to participate in, and  
 33 complete, a program under subdivision (b), the court shall impose  
 34 as a condition of probation that the person, subsequent to the date  
 35 of the current violation, enroll in and participate, for at least 18  
 36 months and in a manner satisfactory to the court, in a  
 37 driving-under-the-influence program licensed pursuant to Section  
 38 11836 of the Health and Safety Code, as designated by the court.  
 39 The person shall complete the entire program subsequent to, and  
 40 shall not be given any credit for program activities completed prior

1 to, the date of the current violation. Any person who has previously  
2 completed a 12-month or 18-month driving-under-the-influence  
3 program licensed pursuant to Section 11836 of the Health and  
4 Safety Code shall not be eligible for referral pursuant to this  
5 subdivision unless a 30-month driving-under-the-influence  
6 program licensed pursuant to Section 11836 of the Health and  
7 Safety Code is not available for referral in the county of the  
8 person's residence or employment. No condition of probation  
9 required pursuant to this subdivision is a basis for reducing any  
10 other probation requirement in this section or Section 23600 or for  
11 avoiding the mandatory license revocation provisions of  
12 paragraph (7) of subdivision (a) of Section 13352.

13 ~~SEC. 10. Section 23575 of the Vehicle Code is amended to~~  
14 ~~read:~~

15 ~~23575. (a) (1) In addition to any other provisions of law, the~~  
16 ~~court shall require a person convicted of a first offense violation~~  
17 ~~of Section 23152 or 23153 who is found by the court to have had~~  
18 ~~0.15 percent or more, by weight, of alcohol in his or her blood at~~  
19 ~~the time of the arrest, or who is found to have refused to take a~~  
20 ~~chemical test at the time of the arrest, to install a certified ignition~~  
21 ~~interlock device on any vehicle that the person owns or operates~~  
22 ~~and prohibit that person from operating a motor vehicle unless that~~  
23 ~~vehicle is equipped with a functioning, certified ignition interlock~~  
24 ~~device. The court may apply this sanction to a person convicted of~~  
25 ~~a first offense violation of Section 23152 or 23153 who is found~~  
26 ~~by the court to have had less than 0.15 percent, by weight, of~~  
27 ~~alcohol in his or her blood at the time of the arrest, but who has two~~  
28 ~~or more prior moving violations. If the court orders the ignition~~  
29 ~~interlock device restriction, the term shall be determined by the~~  
30 ~~court for a period not to exceed three years from the date of~~  
31 ~~conviction. The court shall notify the department, as specified in~~  
32 ~~subdivision (a) of Section 1803, of the terms of the restriction in~~  
33 ~~accordance with subdivision (a) of Section 1804. The department~~  
34 ~~shall place the restriction in the person's records in the department.~~

35 ~~(2) The court shall require any person convicted of a violation~~  
36 ~~of Section 14601.2 to install an ignition interlock device on any~~  
37 ~~vehicle that the person owns or operates and shall prohibit the~~  
38 ~~person from operating a motor vehicle unless the vehicle is~~  
39 ~~equipped with a functioning, certified ignition interlock device.~~  
40 ~~The term of the restriction shall be determined by the court for a~~



1 period not to exceed three years from the date of conviction. The  
2 court shall notify the department, as specified in subdivision (a) of  
3 Section 1803, of the terms of the restrictions in accordance with  
4 subdivision (a) of Section 1804. The department shall place the  
5 restriction in the person's records in the department.

6 ~~(b) The court shall include on the abstract of conviction or~~  
7 ~~violation submitted to the department under Section 1803 or 1816,~~  
8 ~~the requirement and term for the use of a certified ignition~~  
9 ~~interlock device. The records of the department shall reflect~~  
10 ~~mandatory use of the device for the term ordered by the court.~~

11 ~~(c) The court shall advise the person that installation of an~~  
12 ~~ignition interlock device on a vehicle does not allow the person to~~  
13 ~~drive without a valid driver's license.~~

14 ~~(d) Any person whose driving privilege is restricted by the~~  
15 ~~court pursuant to this section shall arrange for each vehicle with~~  
16 ~~an ignition interlock device to be serviced by the installer at least~~  
17 ~~once every 60 days in order for the installer to recalibrate and~~  
18 ~~monitor the operation of the device. The installer shall notify the~~  
19 ~~court if the device is removed or indicates that the person has~~  
20 ~~attempted to remove, bypass, or tamper with the device, or if the~~  
21 ~~person fails three or more times to comply with any requirement~~  
22 ~~for the maintenance or calibration of the ignition interlock device.~~  
23 ~~There is no obligation for the installer to notify the court if the~~  
24 ~~person has complied with all of the requirements of this article.~~

25 ~~(e) The court shall monitor the installation and maintenance of~~  
26 ~~any ignition interlock device restriction ordered pursuant to~~  
27 ~~subdivision (a) or (l). If any person fails to comply with the court~~  
28 ~~order, the court shall give notice of the fact to the department~~  
29 ~~pursuant to Section 40509.1.~~

30 ~~(f) (1) Pursuant to Section 13352, if any person is convicted of~~  
31 ~~a violation of Section 23152 or 23153, and the offense occurred~~  
32 ~~within seven years of one or more separate violations of Section~~  
33 ~~23152 or 23153 that resulted in a conviction, the person may apply~~  
34 ~~to the department for a restricted driver's license pursuant to~~  
35 ~~Section 13352 that prohibits the person from operating a motor~~  
36 ~~vehicle unless that vehicle is equipped with a functioning ignition~~  
37 ~~interlock device, certified pursuant to Section 13386. The~~  
38 ~~restriction shall remain in effect for at least the remaining period~~  
39 ~~of the original suspension or revocation and until all reinstatement~~  
40 ~~requirements in Section 13352 are met.~~



1     ~~(2) Pursuant to subdivision (g), the department shall~~  
2 ~~immediately terminate the restriction issued pursuant to Section~~  
3 ~~13352 and shall immediately suspend or revoke the privilege to~~  
4 ~~operate a motor vehicle of any person who attempts to remove,~~  
5 ~~bypass, or tamper with the device, who has the device removed~~  
6 ~~prior to the termination date of the restriction, or who fails three~~  
7 ~~or more times to comply with any requirement for the maintenance~~  
8 ~~or calibration of the ignition interlock device ordered pursuant to~~  
9 ~~Section 13352. The privilege shall remain suspended or revoked~~  
10 ~~for the remaining period of the originating suspension or~~  
11 ~~revocation and until all reinstatement requirements in Section~~  
12 ~~13352 are met.~~

13     ~~(g) Any person whose driving privilege is restricted by the~~  
14 ~~department under Section 13352 shall arrange for each vehicle~~  
15 ~~with an ignition interlock device to be serviced by the installer at~~  
16 ~~least once every 60 days in order for the installer to recalibrate the~~  
17 ~~device and monitor the operation of the device. The installer shall~~  
18 ~~notify the department if the device is removed or indicates that the~~  
19 ~~person has attempted to remove, bypass, or tamper with the device,~~  
20 ~~or if the person fails three or more times to comply with any~~  
21 ~~requirement for the maintenance or calibration of the ignition~~  
22 ~~interlock device. There is no obligation on the part of the installer~~  
23 ~~to notify the department or the court if the person has complied~~  
24 ~~with all of the requirements of this section.~~

25     ~~(h) Nothing in this section permits a person to drive without a~~  
26 ~~valid driver's license.~~

27     ~~(i) The department shall include information along with the~~  
28 ~~order of suspension or revocation for repeat offenders informing~~  
29 ~~them that after a specified period of suspension or revocation has~~  
30 ~~been completed, the person may either install an ignition interlock~~  
31 ~~device on any vehicle that the person owns or operates or remain~~  
32 ~~with a suspended or revoked driver's license.~~

33     ~~(j) Pursuant to this section, out-of-state residents who~~  
34 ~~otherwise would qualify for an ignition interlock device restricted~~  
35 ~~license in California shall be prohibited from operating a motor~~  
36 ~~vehicle in California unless that vehicle is equipped with a~~  
37 ~~functioning ignition interlock device. No ignition interlock device~~  
38 ~~is required to be installed on any vehicle owned by the defendant~~  
39 ~~that is not driven in California.~~

(k) ~~If a person has a medical problem that does not permit the person to breathe with sufficient strength to activate the device, then that person shall only have the suspension option.~~

~~(l) This section does not restrict a court from requiring installation of an ignition interlock device and prohibiting operation of a motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device for any persons to whom subdivision (a) or (b) does not apply. The term of the restriction shall be determined by the court for a period not to exceed three years from the date of conviction. The court shall notify the department, as specified in subdivision (a) of Section 1803, of the terms of the restrictions in accordance with subdivision (a) of Section 1804. The department shall place the restriction in the person's records in the department.~~

(m) For purposes of this section, "vehicle" does not include a motorcycle until the state certifies an ignition interlock device that can be installed on a motorcycle. Any person subject to an ignition interlock device restriction may not operate a motorcycle for the duration of the ignition interlock device restriction period.

(n) For purposes of this section, "owned" means solely owned or owned in conjunction with another person or legal entity. For purposes of this section, "operates" includes operating vehicles that are not owned by the person subject to this section.

(o) For the purposes of this section, bypass includes, but is not limited to, either of the following:

(1) Any combination of failing or not taking the ignition interlock device rolling retest three consecutive times.

(2) Any incidence of failing or not taking the ignition interlock device rolling retest, when not followed by an incidence of passing the ignition interlock rolling retest prior to turning the vehicle's engine off.

SEC. 11. *Section 23554 of the Vehicle Code is amended to read:*

23554. If ~~any~~ a person is convicted of a first violation of Section 23153, that person shall be punished by imprisonment in the state prison, or in a county jail for not less than 90 days nor more than one year, and by a fine of not less than ~~three hundred ninety seven hundred fifty dollars (\$390)~~ (\$750) nor more than one thousand ~~five hundred dollars (\$1,000)~~ (\$1,500). The person's privilege to operate a motor vehicle shall be suspended by the

~~Department of Motor Vehicles pursuant to department under~~  
paragraph (2) of subdivision (a) of Section 13352. The court shall  
require the person to surrender the driver's license to the court in  
accordance with Section 13550.

*SEC. 12. Section 23556 of the Vehicle Code is amended to read:*

23556. (a) If the court grants probation to ~~any~~ a person  
punished under Section 23554, in addition to the provisions of  
Section 23600 and any other terms and conditions imposed by the  
court, the court shall impose as a condition of probation that the  
person be confined in the county jail for at least five days but not  
more than one year and pay a fine of at least ~~three hundred ninety~~  
*seven hundred fifty* dollars ~~(\$390)~~ (\$750) but not more than one  
thousand *five hundred* dollars ~~(\$1,000)~~ (\$1,500). The person's  
privilege to operate a motor vehicle shall be suspended by the  
~~Department of Motor Vehicles pursuant to department under~~  
paragraph (2) of subdivision (a) of Section 13352. The court shall  
require the person to surrender the driver's license to the court in  
accordance with Section 13550.

(b) (1) In ~~any~~ a county where the county alcohol program  
administrator has certified, and the board of supervisors has  
approved, such a program or programs, the court shall also impose  
as a condition of probation that the driver shall participate in, and  
successfully complete, an alcohol and other drug education and  
counseling program, established pursuant to Section 11837.3 of  
the Health and Safety Code, as designated by the court.

(2) In ~~any~~ a county where the board of supervisors has  
approved and the State Department of Alcohol and Drug Programs  
has licensed an alcohol and other drug education and counseling  
program, the court shall also impose as a condition of probation  
that the driver enroll in, participate in, and successfully complete,  
a driving-under-the-influence program licensed ~~pursuant to under~~  
Section 11836 of the Health and Safety Code, in the driver's  
county of residence or employment, as designated by the court.

(c) (1) The court shall revoke the person's probation ~~pursuant~~  
~~to under~~ Section 23602, except for good cause shown, for the  
failure to enroll in, participate in, or complete a program specified  
in subdivision (b).

(2) The court, in establishing reporting requirements, shall  
consult with the county alcohol program administrator. The

county alcohol program administrator shall coordinate the reporting requirements with the department and with the Department of Alcohol and Drug Programs. That reporting shall ensure that all persons who, after being ordered to attend and complete a program, may be identified for either (A) failure to enroll in, or failure to successfully complete, the program, or (B) successful completion of the program as ordered.

(d) The court shall advise the person at the time of sentencing that the driving privilege ~~shall~~ *may* not be restored until the person has provided proof satisfactory to the ~~Department of Motor Vehicles~~ *department* of successful completion of a driving-under-the-influence program licensed ~~pursuant to~~ *under* Section 11836 of the Health and Safety Code.

*SEC. 13. Section 23560 of the Vehicle Code is amended to read:*

23560. If ~~any~~ *a* person is convicted of a violation of Section 23153 and the offense occurred within seven years of a separate violation of Section 23103, as specified in Section 23103.5, 23152, or 23153, which resulted in a conviction, that person shall be punished by imprisonment in the state prison, or in a county jail for not less than 120 days nor more than one year, and by a fine of not less than ~~three hundred ninety one thousand five hundred dollars (\$390)~~ *(\$1,500)* nor more than five thousand dollars (\$5,000). The person's privilege to operate a motor vehicle shall be revoked by the ~~Department of Motor Vehicles pursuant to~~ *department* under paragraph (4) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

*SEC. 14. Section 23562 of the Vehicle Code is amended to read:*

23562. If the court grants probation to ~~any~~ *a* person punished under Section 23560, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be subject to either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 120 days and pay a fine of at least ~~three hundred ninety one thousand five hundred dollars (\$390)~~ *(\$1,500)*, but not more than five thousand dollars (\$5,000). The person's privilege to operate a motor vehicle shall be revoked by the ~~Department of Motor Vehicles pursuant to~~

1 *department* under paragraph (4) of subdivision (a) of Section  
2 13352. The court shall require the person to surrender the driver's  
3 license to the court in accordance with Section 13550.

4 (b) All of the following:

5 (1) Be confined in the county jail for at least 30 days, but not  
6 more than one year.

7 (2) Pay a fine of at least ~~three hundred ninety one thousand five~~  
8 ~~hundred~~ dollars ~~(\$390)~~ (\$1,500), but not more than ~~one five~~  
9 ~~thousand~~ dollars ~~(\$1,000)~~ (\$5,000).

10 (3) The privilege to operate a motor vehicle shall be revoked by  
11 ~~the Department of Motor Vehicles~~ *department* under paragraph (4)  
12 of subdivision (a) of Section 13352. The court shall require the  
13 person to surrender the driver's license to the court in accordance  
14 with Section 13550.

15 (4) Either of the following:

16 (A) Enroll and participate, for at least 18 months subsequent to  
17 the date of the underlying violation and in a manner satisfactory  
18 to the court, in a driving-under-the-influence program licensed  
19 ~~pursuant to~~ *under* Section 11836 of the Health and Safety Code,  
20 if available in the county of the person's residence or employment,  
21 as designated by the court. The person shall complete the entire  
22 program subsequent to, and ~~shall~~ *may* not be given any credit for  
23 program activities completed prior to, the date of the current  
24 violation. The program shall provide for persons who cannot  
25 afford the program fee pursuant to paragraph (2) of subdivision (b)  
26 of Section 11837.4 of the Health and Safety Code in order to  
27 enable those persons to participate.

28 (B) Enroll and participate, for at least 30 months subsequent to  
29 the date of the underlying violation and in a manner satisfactory  
30 to the court, in a driving-under-the-influence program licensed  
31 ~~pursuant to~~ *under* Section 11836 of the Health and Safety Code,  
32 if available in the county of the person's residence or employment.  
33 The person shall complete the entire program subsequent to, and  
34 ~~shall~~ *may* not be given any credit for program activities completed  
35 prior to, the date of the current violation.

36 (c) The court shall advise the person at the time of sentencing  
37 that the driving privilege ~~shall~~ *may* not be restored until the person  
38 has provided proof satisfactory to the ~~Department of Motor~~  
39 ~~Vehicles~~ *department* of successful completion of a

driving-under-the-influence program licensed ~~pursuant to~~ under  
Section 11836 of the Health and Safety Code.

*SEC. 15. Section 23566 of the Vehicle Code is amended to  
read:*

23566. (a) If ~~any~~ a person is convicted of a violation of  
Section 23153 and the offense occurred within seven years of two  
or more separate violations of Section 23103, as specified in  
Section 23103.5, or Section 23152 or 23153, or any combination  
of these violations, which resulted in convictions, that person shall  
be punished by imprisonment in the state prison for a term of two,  
three, or four years and by a fine of not less than ~~one~~ three thousand  
fifteen dollars ~~(\$1,015)~~ (\$3,000) nor more than ~~five~~ six thousand  
dollars ~~(\$5,000)~~ (\$6,000). The person's privilege to operate a  
motor vehicle shall be revoked by the ~~Department of Motor~~  
~~Vehicles pursuant to department~~ under paragraph (6) of  
subdivision (a) of Section 13352. The court shall require the  
person to surrender the driver's license to the court in accordance  
with Section 13550.

(b) If ~~any~~ a person is convicted of a violation of Section 23153,  
and the act or neglect proximately causes great bodily injury, as  
defined in Section 12022.7 of the Penal Code, to ~~any~~ a person other  
than the driver, and the offense occurred within seven years of two  
or more separate violations of Section 23103, as specified in  
Section 23103.5, or Section 23152 or 23153, or any combination  
of these violations, which resulted in convictions, that person shall  
be punished by imprisonment in the state prison for a term of two,  
three, or four years and by a fine of not less than ~~one~~ three thousand  
fifteen dollars ~~(\$1,015)~~ (\$3,000) nor more than ~~five~~ six thousand  
dollars ~~(\$5,000)~~ (\$6,000). The person's privilege to operate a  
motor vehicle shall be revoked by the ~~Department of Motor~~  
~~Vehicles pursuant to department~~ under paragraph (6) of  
subdivision (a) of Section 13352. The court shall require the  
person to surrender the driver's license to the court in accordance  
with Section 13550.

(c) (1) If ~~any~~ a person is convicted under subdivision (b), and  
the offense for which the person is convicted occurred within  
seven years of four or more separate violations of Section 23103,  
as specified in Section 23103.5, or Section 23152 or 23153, or any  
combination of these violations, that resulted in convictions, that  
person shall, in addition and consecutive to the sentences imposed



1 under subdivision (b), be punished by an additional term of  
2 imprisonment in the state prison for three years.

3 ~~The~~

4 (2) ~~The~~ enhancement allegation provided ~~in this subdivision~~  
5 ~~under paragraph (1)~~ shall be pleaded and proved as provided by  
6 law.

7 (d) ~~Any~~ A person convicted of *a violation of* Section 23153 that  
8 is punishable under this section shall be designated as a habitual  
9 traffic offender for a period of three years, subsequent to the  
10 conviction. The person shall be advised of this designation  
11 ~~pursuant to~~ under subdivision (b) of Section 13350.

12 (e) ~~Any~~ A person confined in state prison under this section  
13 shall be ordered by the court to participate in an alcohol or drug  
14 program, or both, that is available at the prison during the person's  
15 confinement. Completion of an alcohol or drug program under this  
16 section does not meet the program completion requirement of  
17 paragraph (6) of subdivision (a) of Section 13352, unless the drug  
18 or alcohol program is licensed under Section 11836 of the Health  
19 and Safety Code, or is a program specified in Section 8001 of the  
20 Penal Code.

21 *SEC. 16. Section 23568 of the Vehicle Code is amended to*  
22 *read:*

23 23568. (a) If the court grants probation to ~~any~~ a person  
24 punished under Section 23566, in addition to the provisions of  
25 Section 23600 and any other terms and conditions imposed by the  
26 court, the court shall impose as conditions of probation that the  
27 person be confined in the county jail for at least one year, that the  
28 person pay a fine of at least three ~~hundred ninety-~~ thousand dollars  
29 ~~(\$390)~~ (\$3,000) but not more than ~~five six~~ thousand dollars  
30 ~~(\$5,000)~~ (\$6,000), and that the person make restitution or  
31 reparation ~~pursuant to~~ under Section 1203.1 of the Penal Code.  
32 The person's privilege to operate a motor vehicle shall be revoked  
33 by the ~~Department of Motor Vehicles pursuant to department~~  
34 ~~under~~ paragraph (6) of subdivision (a) of Section 13352. The court  
35 shall require the person to surrender the driver's license to the  
36 court in accordance with Section 13550.

37 (b) In addition to Section 23600 and subdivision (a), if the court  
38 grants probation to ~~any~~ a person punished under Section 23566,  
39 the court shall impose as a condition of probation that the person  
40 enroll in and complete, subsequent to the date of the underlying



1 violation and in a manner satisfactory to the court, an 18-month  
2 driving-under-the-influence program licensed ~~pursuant to~~ under  
3 Section 11836 of the Health and Safety Code or, if available in the  
4 county of the person's residence or employment, a 30-month  
5 driving-under-the-influence program licensed ~~pursuant to~~ under  
6 Section 11836 of the Health and Safety Code, as designated by the  
7 court. The person shall complete the entire program subsequent to,  
8 and ~~shall~~ may not be given any credit for program activities  
9 completed prior to, the date of the current violation. In lieu of the  
10 minimum term of imprisonment in subdivision (a), the court shall  
11 impose as a minimum condition of probation under this  
12 subdivision that the person be confined in the county jail for at least  
13 30 days but not more than one year. Except as provided in this  
14 subdivision, if the court grants probation under this section, the  
15 court shall order the treatment prescribed by this subdivision,  
16 whether or not the person has previously completed a treatment  
17 program ~~pursuant to~~ under paragraph (4) of subdivision (b) of  
18 Section 23542 or paragraph (4) of subdivision (b) of Section  
19 23562. A person ordered to treatment ~~pursuant to~~ under this  
20 subdivision shall apply to the court or to a board of review, as  
21 designated by the court, at the conclusion of the program to obtain  
22 the court's order of satisfaction. Only upon the granting of that  
23 order of satisfaction by the court may the program issue its  
24 certificate of successful completion and report the completion to  
25 the ~~Department of Motor Vehicles~~ department. A failure to obtain  
26 an order of satisfaction at the conclusion of the program is a  
27 violation of probation. In order to enable all required persons to  
28 participate, each person shall pay the program costs commensurate  
29 with the person's ability to pay as determined ~~pursuant to~~ under  
30 Section 11837.4 of the Health and Safety Code. No condition of  
31 probation required ~~pursuant to~~ under this subdivision is a basis for  
32 reducing any other probation requirement in this section or Section  
33 23600 or for avoiding the mandatory license revocation provisions  
34 of paragraph (6) of subdivision (a) of Section 13352.

35 *SEC. 17. Section 23575 of the Vehicle Code is amended to*  
36 *read:*

37 23575. (a) (1) In addition to any other provisions of law, the  
38 court may require that ~~any~~ a person convicted of a first offense  
39 violation of Section 23152 or 23153 ~~to~~ install a certified ignition  
40 interlock device on any vehicle that the person owns or operates

1 and prohibit that person from operating a motor vehicle unless that  
2 vehicle is equipped with a functioning, certified ignition interlock  
3 device. The court shall give heightened consideration to applying  
4 this sanction to first offense violators with ~~0.20~~ 0.15 percent or  
5 more, by weight, of alcohol in his or her blood at arrest, or with two  
6 or more prior moving traffic violations, or of persons who refused  
7 the chemical tests at arrest. If the court orders the ignition interlock  
8 device restriction, the term shall be determined by the court for a  
9 period not to exceed three years from the date of conviction. The  
10 court shall notify the ~~Department of Motor Vehicles~~ department,  
11 as specified in subdivision (a) of Section 1803, of the terms of the  
12 restrictions in accordance with subdivision (a) of Section 1804.  
13 The ~~Department of Motor Vehicles~~ department shall place the  
14 restriction in the person's records in the ~~Department of Motor~~  
15 ~~Vehicles~~ department.

16 (2) The court shall require any person convicted of a violation  
17 of Section 14601.2 to install an ignition interlock device on any  
18 vehicle that the person owns or operates and *shall* prohibit the  
19 person from operating a motor vehicle unless the vehicle is  
20 equipped with a functioning, certified ignition interlock device.  
21 The term of the restriction shall be determined by the court for a  
22 period not to exceed three years from the date of conviction. The  
23 court shall notify the ~~Department of Motor Vehicles~~ department,  
24 as specified in subdivision (a) of Section 1803, of the terms of the  
25 restrictions in accordance with subdivision (a) of Section 1804.  
26 The ~~Department of Motor Vehicles~~ department shall place the  
27 restriction in the person's records in the ~~Department of Motor~~  
28 ~~Vehicles~~ department.

29 (b) The court shall include on the abstract of conviction or  
30 violation submitted to the ~~Department of Motor Vehicles~~  
31 department under Section 1803 or 1816, the requirement and term  
32 for the use of a certified ignition interlock device. The records of  
33 the department shall reflect mandatory use of the device for the  
34 term ordered by the court.

35 (c) The court shall advise the person that installation of an  
36 ignition interlock device on a vehicle does not allow the person to  
37 drive without a valid driver's license.

38 (d) Any person whose driving privilege is restricted by the  
39 court pursuant to this section shall arrange for each vehicle with  
40 an ignition interlock device to be serviced by the installer at least

once every 60 days in order for the installer to recalibrate and monitor the operation of the device. The installer shall notify the court if the device is removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device. There is no obligation for the installer to notify the court if the person has complied with all of the requirements of this article.

(e) The court shall monitor the installation and maintenance of any ignition interlock device restriction ordered pursuant to subdivision (a) or (l). If any person fails to comply with the court order, the court shall give notice of the fact to the department ~~pursuant to~~ *under* Section 40509.1.

(f) (1) Pursuant to Section 13352, if any person is convicted of a violation of Section 23152 or 23153, and the offense occurred within seven years of one or more separate violations of Section 23152 or 23153 that resulted in a conviction, the person may apply to the ~~Department of Motor Vehicles~~ *department* for a restricted driver's license ~~pursuant to~~ *under* Section 13352 that prohibits the person from operating a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device, certified ~~pursuant to~~ *under* Section 13386. The restriction shall remain in effect for at least the remaining period of the original suspension or revocation and until all reinstatement requirements in Section 13352 are met.

(2) Pursuant to subdivision (g), the ~~Department of Motor Vehicles~~ *department* shall immediately terminate the restriction issued ~~pursuant to~~ *under* Section 13352 and shall immediately suspend or revoke the privilege to operate a motor vehicle of any person who attempts to remove, bypass, or tamper with the device, who has the device removed prior to the termination date of the restriction, or who fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device ordered ~~pursuant to~~ *under* Section 13352. The privilege shall remain suspended or revoked for the remaining period of the originating suspension or revocation and until all reinstatement requirements in Section 13352 are met.

(g) Any person whose driving privilege is restricted by the ~~Department of Motor Vehicles pursuant to~~ *department under* Section 13352 shall arrange for each vehicle with an ignition

1 interlock device to be serviced by the installer at least once every  
2 60 days in order for the installer to recalibrate the device and  
3 monitor the operation of the device. The installer shall notify the  
4 ~~Department of Motor Vehicles~~ *department* if the device is removed  
5 or indicates that the person has attempted to remove, bypass, or  
6 tamper with the device, or if the person fails three or more times  
7 to comply with any requirement for the maintenance or calibration  
8 of the ignition interlock device. There is no obligation on the part  
9 of the installer to notify the department or the court if the person  
10 has complied with all of the requirements of this section.

11 (h) Nothing in this section permits a person to drive without a  
12 valid driver's license.

13 (i) ~~The Department of Motor Vehicles~~ *department* shall include  
14 information along with the order of suspension or revocation for  
15 repeat offenders informing them that after a specified period of  
16 suspension or revocation has been completed, the person may  
17 either install an ignition interlock device on any vehicle that the  
18 person owns or operates or remain with a suspended or revoked  
19 driver's license.

20 (j) Pursuant to this section, out-of-state residents who  
21 otherwise would qualify for an ignition interlock device restricted  
22 license in California shall be prohibited from operating a motor  
23 vehicle in California unless that vehicle is equipped with a  
24 functioning ignition interlock device. No ignition interlock device  
25 is required to be installed on any vehicle owned by the defendant  
26 that is not driven in California.

27 (k) If a person has a medical problem that does not permit the  
28 person to breathe with sufficient strength to activate the device,  
29 then that person shall only have the suspension option.

30 (l) This section does not restrict a court from requiring  
31 installation of an ignition interlock device and prohibiting  
32 operation of a motor vehicle unless that vehicle is equipped with  
33 a functioning, certified ignition interlock device for any persons  
34 to whom subdivision (a) or (b) does not apply. The term of the  
35 restriction shall be determined by the court for a period not to  
36 exceed three years from the date of conviction. The court shall  
37 notify the ~~Department of Motor Vehicles~~ *department*, as specified  
38 in subdivision (a) of Section 1803, of the terms of the restrictions  
39 in accordance with subdivision (a) of Section 1804. The  
40 ~~Department of Motor Vehicles~~ *department* shall place the

1 restriction in the person's records in the ~~Department of Motor~~  
2 ~~Vehicles department.~~

3 (m) For purposes of this section, "vehicle" does not include a  
4 motorcycle until the state certifies an ignition interlock device that  
5 can be installed on a motorcycle. Any person subject to an ignition  
6 interlock device restriction shall not operate a motorcycle for the  
7 duration of the ignition interlock device restriction period.

8 (n) For purposes of this section, "owned" means solely owned  
9 or owned in conjunction with another person or legal entity. For  
10 purposes of this section, "operates" includes operating vehicles  
11 that are not owned by the person subject to this section.

12 (o) For the purposes of this section, bypass includes, but is not  
13 limited to, either of the following:

14 (1) Any combination of failing or not taking the ignition  
15 interlock device rolling retest three consecutive times.

16 (2) Any incidence of failing or not taking the ignition interlock  
17 device rolling retest, when not followed by an incidence of passing  
18 the ignition interlock rolling retest prior to turning the ~~vehicles's~~  
19 ~~vehicle's~~ engine off.

20 SEC. 18. Section 23578 of the Vehicle Code is amended to  
21 read:

22 23578. In addition to any other provision of this code, if any  
23 person is convicted of a violation of Section 23152 or 23153, the  
24 court shall consider a concentration of alcohol in the person's  
25 blood of 0.15 percent or more, by weight, or the refusal of the  
26 person to take a chemical test as a special factor that may justify  
27 enhancing the penalties in sentencing, in determining whether to  
28 grant probation, and, if probation is granted, in determining  
29 additional or enhanced terms and conditions of probation.

30 SEC. 12. ~~Section 23587 is added to the Vehicle Code, to read:~~

31 ~~23587. (a) If a person is convicted of a violation of Section~~  
32 ~~23152 and the court finds that the person had a blood alcohol~~  
33 ~~concentration less than 0.15 percent, by weight, at the time of the~~  
34 ~~arrest, the court shall impose the following penalties in addition to~~  
35 ~~any other penalty prescribed by law:~~

36 ~~(1) If the person is convicted of a violation of Section 23152~~  
37 ~~that is punishable under Section 23540, the punishment shall be~~  
38 ~~enhanced by an additional fine of five hundred dollars (\$500).~~

~~(2) If the person is convicted of a violation of Section 23152 that is punishable under Section 23546, the punishment shall be enhanced by an additional fine of one thousand dollars (\$1,000).~~

~~(3) If the person is convicted of a violation of Section 23152 that is punishable under Section 23550, the punishment shall be enhanced by an additional fine of two thousand five hundred dollars (\$2,500).~~

~~(b) If a person is convicted of a violation of Section 23152 and the court finds that the person had a blood-alcohol concentration of 0.15 percent or more, by weight, at the time of the arrest, the court shall impose the following penalties in addition to any other penalty prescribed by law:~~

~~(1) If the person is convicted of a violation of Section 23152 that is punishable under Section 23536, the punishment shall be enhanced by an additional fine of five hundred dollars (\$500).~~

~~(2) If the person is convicted of a violation of Section 23152 that is punishable under Section 23540, the punishment shall be enhanced by an additional fine of two thousand five hundred dollars (\$2,500).~~

~~(3) If the person is convicted of a violation of Section 23152 that is punishable under Section 23546, the punishment shall be enhanced by an additional fine of five thousand dollars (\$5,000).~~

~~(4) If the person is convicted of a violation of Section 23152 that is punishable under Section 23550, the punishment shall be enhanced by an additional fine of ten thousand dollars (\$10,000).~~

~~SEC. 13.~~

*SEC. 19. Section 23587 is added to the Vehicle Code, to read:*

*23587. (a) If a person is convicted of a violation of Section 23152 or 23153 and the court determines that the person had a blood-alcohol concentration of 0.15 percent or more, by weight, at arrest, the fine that otherwise would have been imposed under Section 23536, 23538, 23540, 23542, 23546, 23548, 23550, 23550.5, 23552, 23554, 23556, 23560, 23562, 23566, or 23568 shall be doubled.*

*(b) If a person is convicted of a violation of Section 23153 and the court finds that the person had a blood-alcohol concentration of less than 0.15 percent, by weight, at arrest, and that person is punished under Section 23554 or 23556, 30 percent of the fine imposed shall be distributed under Section 1463.29 of the Penal Code.*



1 (c) If a person is convicted of a violation of Section 23152 or  
2 23153 and the court finds that the person had a blood-alcohol  
3 concentration of less than 0.15 percent, by weight, at arrest, and  
4 that person is punished under Section 23540, 23542, 23546,  
5 23548, 23550, 23552, 23560, 23562, 23566, or 23568, 50 percent  
6 of the fine imposed shall be distributed under Section 1463.29 of  
7 the Penal Code.

8 (d) If a person is convicted of a violation of Section 23152 or  
9 23153 and the court finds that the person had a blood-alcohol  
10 concentration of 0.15 percent or more, by weight, at arrest, and  
11 that person is punished under Section 23536, 23538, 23554, or  
12 23556, 50 percent of the fine imposed shall be distributed under  
13 Section 1463.29 of the Penal Code.

14 (f) If a person is convicted of a violation of Section 23152 or  
15 23153 and the court finds that the person had a blood-alcohol  
16 concentration of 0.15 percent or more, by weight, at arrest, and  
17 that person is punished under Section 23540, 23542, 23546,  
18 23548, 23550, 23552, 23560, 23562, 23566, or 23568, 75 percent  
19 of the fine imposed shall be distributed under Section 1463.29 of  
20 the Penal Code.

21 SEC. 20. Notwithstanding Section 17610 of the Government  
22 Code, if the Commission on State Mandates determines that this  
23 act contains costs mandated by the state, reimbursement to local  
24 agencies and school districts for those costs shall be made pursuant  
25 to Part 7 (commencing with Section 17500) of Division 4 of Title  
26 2 of the Government Code. If the statewide cost of the claim for  
27 reimbursement does not exceed one million dollars (\$1,000,000),  
28 reimbursement shall be made from the State Mandates Claims  
29 Fund.